

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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COMMISSION
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In the Matter of)
)
Implementation of Section 402(b)(2)(A) of) CC Docket No. 97-11
the Telecommunications Act of 1996)

COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these comments to the Notice of Proposed Rulemaking ("NPRM"), FCC 97-6, released January 13, 1997.

NTCA is a national association of approximately 500 local exchange carriers ("LECs"). These LECs provide telecommunications services to end users and interexchange carriers throughout rural America. NTCA members are typically small carriers that serve no more than 50,000 access lines. They all provide interstate access services under rate of return regulation. Some provide interstate interexchange services subject to the Commission's jurisdiction and would be affected by the Commission's proposal to retain Section 214 certification requirements for rate-of-return LECs' second and subsequent lines into territory they already serve.

The Commission's proposal in this NPRM is intended to implement Section 402(b)(2)(A) of the Telecommunications Act of 1996 which simply states that "The Commission shall permit any common carrier - (A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line..." The Commission proposes to define the term "extension of a line" as a line that allows the carrier to expand its service into a

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geographic territory that it is eligible to serve, but that its network does not currently reach. It also proposes to forbear from exercising section 214 authority over “new” lines constructed by LECs subject to price cap regulation, average schedule companies and domestic non-dominant carriers.¹ “New” lines under the proposal include additions or projects that “increase the capabilities of a carrier’s existing network within an area it already serves...”² Small projects that involve “new” lines would be granted blanket authority if they, either (1) have a total annual cost of no more than \$12,000,000 or an annual rental of no more than \$3,000,000; or (2) increase the total book value of the carrier’s lines by not more than 10%.³

The Commission acknowledges that its proposals will have anomalous results but states that its proposed definitions would create fewer anomalies than other possible definitions.⁴ One anomaly that the Commission does not recognize is that small LECs are among the group of carriers that will bear the brunt of its selective exclusion of rate of return LECs from the benefits of forbearance. Under the Commission’s proposal, small “fully subject” LECs that provide interstate interexchange service would be required to obtain Section 214 certificates for “new” projects that exceed the blanket authority limits while larger price cap companies or non-dominant IXC’s would escape this burden. This anomalous result is partly due to the Commission’s insistence on treating all LECs, no matter how small, as dominant carriers. This anomaly can be cured without disturbing the Commission’s definitions. The Commission need

¹ NPRM at ¶3.

² NPRM at ¶ 21.

³ NPRM at ¶ 62.

⁴NPRM at ¶ 26.

only find that forbearance is appropriate for all LECs in light of its heavy regulation of all LEC interstate services.

There is basis for the asserted concern that LEC captive ratepayers will be harmed unless certification is employed for these LECs' construction of second and subsequent lines into existing territory. As the Commission acknowledges, existing accounting and cost allocation rules are already designed to protect captive ratepayers.⁵ Dominant as well as non-dominant carriers also file tariffs for their interstate services. Furthermore, competitive pressures will be an additional check that will prevent the needless duplication of facilities Section 214 certification procedures are intended to prevent.

CONCLUSION


In light of the foregoing, the Commission's interest in promoting competition warrants abandonment of its proposal to selectively impose Section 214 certification requirements on rate-of-return LECs. There is no need for this additional layer of regulation which brings with it added costs and burdens that are likely to impede competition without producing overriding

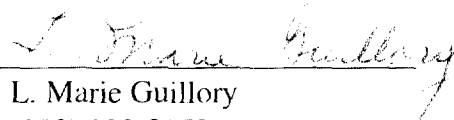
⁵ NPRM at ¶ 24.

public benefits. The Commission should therefore forbear from imposing Section 214 certification requirements on rate-of-return LECs "new" projects.

Respectfully submitted,

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February 24, 1997

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 97-11 was served on this 24th day of February 1997, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


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